HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

WRIT APPEAL (PR) NO.1939 OF 2007

APPELLANT M/s Manish Travels, through Proprietor Manish Kumar Jain, S/o Late Shri Bhagchand Jain, Aged about 38 years, R/o New Bus Stand, Durg (CG).

Versus

RESPONDENTS

1. State Transport Appellate Tribunal, Raipur (CG).
2. Regional Transport Authority, Chhattisgarh at Raipur.
3. Secretary, R.T.A. Jagdalpur (CG).
4. Dubey Travels, through Partner Brajesh Dubey, Bus Stand, Raipur (CG).

Present : Shri B.K. Rawat, counsel for the appellant.
Shri N.K. Agrawal, Dy. Advocate General for the State.

ORAL ORDER
(Passed on 16th March, 2007)

The following oral order of the Court was passed by H.L. Dattu, CJ.

Appellant before us is the petitioner in W.P.No.7191/2006. In the said writ petition he had called in question the orders passed by the State Transport Appellate Tribunal ("the Tribunal" for short) in revision petition No.164/2006 dated 20-11-2006. Learned single Judge has rejected the writ petition. It is this order, which is called in question by the appellant in this appeal.

2) Shri Agrawal, learned Dy. Advocate General, by way of preliminary objection would submit, that, the appeal filed by the appellant

against the order passed by learned Single Judge under Article 227 of the Constitution is not maintainable before this Court. In aid of his submission, learned counsel has brought to our notice the Chhattisgarh High Court (Appeal to Division Bench) Act, 2006 ("the Act" for short).

3) Shri Rawat, learned counsel appearing for the appellant, would submit that this Court as well as Madhya Pradesh High Court have taken the view, that even if an order is passed by an Industrial Tribunal/ Labour Court/State Transport Appellate Tribunal, the petitioner could file a petition under Article 226 of the Constitution of India and since the matter is decided by the learned single Judge exercising the power under Article 226 of the Constitution of India, the appeal filed against the said order is maintainable. Reliance is placed on the observations made by the Madhya Pradesh High Court in the case of **State of M.P. and others vs. M.S. Wakankar and another** reported in **2007 (1) MPLJ 99** and observations made by the learned Single Judge of this Court in W.P.No.545/2006 dated 23-2-2006.

4) The only question that would arise before us, for the present, is whether the appeal filed by the appellant against the order passed by the learned single Judge is maintainable before this Court.

5) Admittedly, the appellant had questioned the orders passed by the Tribunal in revision petition No.164/2006 in the writ petition. The appellant might have categorized the said petition as a petition under Article 226 of the Constitution. Mere nomenclature and mere quoting of provision would not make the said petition as one filed under Article 226 of the Constitution.

6) Under Article 227 of the Constitution of India, the High Court has power of superintendence over all Courts in the territory with respect to which it exercises jurisdiction. This power of

superintendence is both judicial and administrative. Any order passed by the Tribunal can be questioned by an aggrieved party before this Court in a petition filed both under Articles 226 and 227 of the Constitution of India. When such is the case, the Court will have to examine having regard to the nature of the allegations made in the petition and the relief claimed therein, as to whether the petitioner wants the High Court to exercise its supervisory jurisdiction under Article 227 of the Constitution or its original jurisdiction under Article 226 of the Constitution. In the instant case, the cause had been initiated before the Tribunal. The Tribunal gave its verdict. The order passed by the Tribunal was questioned by the petitioner before this Court in a writ petition and in that except questioning the correctness or otherwise of the order, had not questioned the vires of any provision of the Act, on the jurisdiction of the authority passing the order or on the ground that it suffered from an error of law apparent on the face of the record. That only means the petition that is filed is only under Article 227 of the Constitution of India with a request to exercise supervisory jurisdiction of this Court. The Chhattisgarh High Court (Appeals to Division Bench) Act, 2006 specifically prohibits entertaining of an appeal, if the appeal is decided by a learned Single Judge in exercise of powers under Article 227 of the Constitution. Section 2 of the Act, 2006 reads as below :

> "**2. Appeal to the Division Bench of the High Court from a Judgment or order of one judge of the High Court made in exercise of original jurisdiction.**—(1) An appeal shall lie from a judgment or order passed by one Judge of the High Court in exercise of original Jurisdiction under Article 226 of the Constitution of India, to a Division Bench comprising of two Judges of the same High Court :

Provided that no such appeal shall lie against an interlocutory order or against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

(2) An appeal under sub-section (1) shall be filed within 45 days from the date of order passed by a single Judge :

Provided that any appeal may be admitted after the prescribed period of 45 days, if the petitioner satisfies the Division Bench that he had sufficient cause for not preferring the appeal within such period.

Explanation.—The fact that the petitioner was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may by sufficient cause within the meaning of this sub-section.

(3) An appeal under sub-section (1) shall be filed, heard and decided in accordance with the procedure as may be prescribed by the High Court."

8) Proviso to the appended rule specifically envisages that no appeal would lie against the interlocutory order or a final order passed by this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution.

9) In view of the specific provision under the Act, 2006, in our opinion, a writ appeal does not lie against an order passed by the learned single Judge of this Court in exercise of his power of superintendence under Article 227 of the Constitution of India. In that view of the matter, we accept the preliminary objection raised by learned Deputy Advocate General.

10) In view of the above, the appeal is disposed of as not maintainable. Ordered accordingly.

Sd/-
Chief Justice

Sd/-
V.K. Shrivastava
Judge